IN THE HIGH COURT OF JUDICATURE AT PATNA

MA No.52 of 2006

Commissioner of Customs, Govt. Of India, Patna, 5th Floor, C.R. Building, Bir Chand Patel Path, P.S. – Kotwali, Town and District – Patna

.. ……..Appellant - Respondent

Versus

Moti Singh, S/O Hir Singh, Resident Of 58/12 Narayan Katra, Niichibag, Varanasi

……..Respondent- Appellant

For the Appellant : Mr. Nividita Nirvikar, Advocate

For the Respondent : None.

P R E S E N T

Hon'ble the Chief Justice
&
Hon'ble Mr. Justice Kishore K. Mandal

WEB COPY NOT OFFICIAL

Dated, the 25th September, 2008.

We heard Mrs. Nividita Nirvikar, the counsel for the Revenue and perused the order of Customs, Excise & Service Tax Appellate Tribunal (for short, 'Tribunal')

2. The Tribunal observed that the Revenue has not let in evidence to establish that the subject goods were smuggled by the respondent herein. Although some discrepancies were found in the documents relied upon by the respondent herein, the Tribunal has observed that by such discrepancies, it cannot be held that the goods were imported in a clandestine manner.

3. The counsel for the Revenue does not dispute that in so far as Revenue is concerned, the evidence was not let in to establish that goods were smuggled by the present respondent.

4. Revenue sought to rely upon the discrepancies in the diverse documents submitted by the present respondent. The Tribunal has considered that aspect and, as noticed above, held that the Revenue failed to establish that the goods were clandestinely imported in India.

5. The consideration of the matter by the Tribunal is concluded by finding of fact. No substantial question of law arises.

6. Miscellaneous Appeal is dismissed in limine.

R. M. Lodha, CJ.

Kishore K. Mandal, J.

Anil/

WEB COPY NOT OFFICIAL